

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4321/2dn
RLR:jld:jf

March 3, 2006

Bill Cross:

As requested, this redraft is based on Nebraska Bill 790.

The Nebraska bill and this bill prohibit anyone from “administering” any type of drug that contains more than the permitted amount of mercury to a person. This may prohibit a parent from giving a child an over-the-counter drug that contains mercury. Is this what you intend?

As we discussed, the Nebraska bill applies to drugs for humans and animals, but the Nebraska informed consent exception may only be used to administer a drug to a human, not an animal. As you requested, I drafted this bill so it only prohibits administering drugs that contain mercury to humans.

The exemption in the Nebraska bill for public health emergencies is not a true exception, because even if the the director of health and human services makes a finding of a public health emergency, patients must still comply with the informed consent exception before receiving a drug containing mercury. Therefore, this bill authorizes the Secretary of Health and Family Services to declare that a public health emergency, epidemic, drug shortage, or other incident makes the administration of drugs containing mercury necessary, but the declaration just serves as public notice.

This bill requires DHFS to test the mercury content of drugs for humans that are available in the state. The bill does not give DHFS authority to seize drugs, so presumably DHFS must purchase the drugs. The bill does not provide funding to purchase drugs. Also, the bill does not specify how many drugs DHFS must test.

The Nebraska bill requires that insurers who cover early childhood immunizations must reimburse vaccines that do not contain mercury at the same rate as vaccines that do contain mercury. This bill pertains to immunizations “for children.” Would you prefer to limit the bill to immunizations provided to children under a certain age, and if so, what age?

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